



California  
Environmental  
Protection  
Agency



Air Resources Board

P.O. Box 2815  
2020 L Street  
Sacramento, CA  
95812-2815

August 1, 1997



Pete Wilson  
Governor

James M. Strock  
Secretary for  
Environmental  
Protection

Ms. Felicia Marcus  
Region IX Administrator  
United States Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, California 94105

Attention: Mr. David P. Howekamp, Director  
Air and Toxics Division

Dear Ms. Marcus:

Enclosed are three copies of revisions to the State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards (SIP). These revisions consist of rescinded rules, new rules, and amendments to existing rules of the following air pollution control and air quality management districts (districts):

Bay Area Air Quality Management District  
Kern County Air Pollution Control District  
Mojave Desert Air Quality Management District  
Monterey Bay Unified Air Pollution Control District  
Placer County Air Pollution Control District  
San Diego County Air Pollution Control District  
San Luis Obispo County Air Pollution Control District  
South Coast Air Quality Management District  
Ventura County Air Pollution Control District

Also enclosed is Air Resources Board (ARB) Executive Order G-125-223 adopting the district rules as revisions to the SIP. The districts are authorized to adopt and enforce the rules by California Health and Safety Code Section 40001. The ARB is authorized to adopt the rules as revisions to the SIP by Health and Safety Code Sections 39601, 39602, and 41650 through 41652. Enclosure A lists the specific rules that were rescinded, adopted or amended by the districts and that have been adopted as revisions to the SIP by the ARB through Executive Order G-125-223.

To meet the United States Environmental Protection Agency (U.S. EPA) criteria for determining that rule submittals are administratively and technically complete, we have enclosed evaluations of the effects of the rules on emissions, evaluations of the rules' consistency with 40 CFR, Part 51, and other supporting documentation provided to us to date by the affected districts. We have made every reasonable effort to obtain from the districts all documentation necessary to comply with the U.S. EPA's SIP Completeness Policy.



Ms. Felicia Marcus

August 1, 1997

Page Two

We understand that, according to Section 110(k)(1)(B) of the federal Clean Air Act, the U.S. EPA will determine within 60 days of the Administrator's receipt of a SIP revision, but no later than six months after the date by which the State is required to submit the revision, whether the rule packages within the revision are adequately complete to review for approvability. The ARB staff may receive additional supporting documentation from affected districts within the next few months. We will, of course, forward those additional materials to you.

If you have any questions or would like to discuss this SIP revision, please contact Mr. Robert D. Fletcher, Chief, Emissions Assessment Branch, Stationary Source Division, at (916) 322-6023; or if I may be of assistance, contact me at (916) 322-2890.

Sincerely,

A handwritten signature in black ink, reading "Michael H. Scheible". The signature is written in a cursive, flowing style.

Michael H. Scheible  
Deputy Executive Officer

Enclosures

cc: Mr. Robert D. Fletcher, Chief  
Emissions Assessment Branch  
Stationary Source Division



**California Environmental Protection Agency**  
**AIR RESOURCES BOARD**  
**Executive Order G-125-223**

WHEREAS, the rules identified in Enclosure A have been adopted or amended or rescinded by the following air pollution control and air quality management districts (districts):

Bay Area Air Quality Management District  
Kern County Air Pollution Control District  
Mojave Desert Air Quality Management District  
Monterey Bay Unified Air Pollution Control District  
Placer County Air Pollution Control District  
San Diego County Air Pollution Control District  
San Luis Obispo County Air Pollution Control District  
South Coast Air Quality Management District  
Ventura County Air Pollution Control District

WHEREAS, the districts are authorized by California Health and Safety Code Section 40001 to adopt and enforce the rules identified in Enclosure A; and

WHEREAS, the rules have been submitted to the Air Resources Board for inclusion in the State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards (SIP) as reasonably available control measures for limiting emissions of air pollutants within the districts; and

WHEREAS, the Air Resources Board has determined that these rules are necessary to meet requirements of the Federal Clean Air Act; and

WHEREAS, the Air Resources Board is authorized by California Health and Safety Code Sections 39601, 39602, and 41650 through 41652 to adopt district rules as revisions to the SIP.

THEREFORE, IT IS ORDERED that the Air Resources Board hereby adopts the district rules identified in Enclosure A as revisions to the SIP.

I certify, pursuant to 40 CFR Section 51.102(f), that the rules identified in Enclosure A were adopted or amended after notice and public hearings as required by 40 CFR 51.102(a) and 51.102(d).

Executed this 1st day of August, 1997, at Sacramento, California.

CALIFORNIA AIR RESOURCES BOARD



Michael H. Scheible  
Deputy Executive Officer



Date: August 1, 1997

**California Environmental Protection Agency  
AIR RESOURCES BOARD**

**Enclosure A**

Rules That Were Rescinded, Adopted, or Amended by the Air Pollution Control and Air Quality Management Districts and are Submitted as Revisions to the *State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards*

<b>APCD/AQMD</b>	<b>Rule Number</b>	<b>Date Rescinded/ Adopted/ Amended</b>	<b>Title</b>
<b>Bay Area</b>	<b>Regulation 8</b>		
	45	11/6/96	Motor Vehicle and Mobile Equipment Coating Operations (amended)
	50	11/6/96	Polyester Resin (amended)
	<b>Manual of Procedures, Volume III, Lab Method</b>		
	42	11/6/96	Determination of Ammonia in Coatings, Inks and Related Materials (adopted)
	43	11/6/96	Determination of Volatile Methylsiloxanes in Solvent Based Coatings, Inks and Related Materials (adopted)
<b>Kern Co.</b>	405	5/1/97	Particulate Matter - Emission Rate (amended)
	410-1	5/1/97	Architectural Coatings (amended)
<b>Mojave Desert</b>	1157	5/19/97	Boilers and Process Heaters (amended)
	1402	5/19/97	Emission Reduction Credit Registry (amended)
<b>Monterey Bay Unified</b>	201	5/14/97	Sources Not Requiring Permits (amended)
	400	6/18/97	Visible Emissions (amended)
<b>Placer Co.</b>	239	2/13/97	Graphic Arts Operations (amended)
<b>San Diego Co.</b>	11	5/21/97	Exemptions from Rule 10 Permit Requirements (amended)
	52	1/22/97	Particulate Matter
	53	1/22/97	Specific Air Contaminants (amended)
	54	1/22/97	Dust and Fumes (amended)
	67.9	4/30/97	Aerospace Coating Operation (amended)
	67.10	6/25/97	Kelp Processing and Bio-Polymer Manufacturing Operations (amended)





San Luis Obispo Co.	102	3/26/97	Compliance by Existing Installing for Granting Applications (amended)
South Coast	403	2/14/97	Fugitive Dust (amended)
	1124	12/13/96	Aerospace Assembly and Component Manufacturing Operations (amended)
	1134	4/11/97	Emissions of Oxides of Nitrogen from Stationary Gas Turbines (amended)
	1145	2/14/97	Plastic, Rubber and Glass Coatings (amended)
	1186	2/14/97	PM <sub>10</sub> Emissions from Paved and Unpaved Roads and Livestock Operations (adopted)
Ventura Co.	42.M	4/15/97	Air Toxics "Hot Spots" Program Fees (rescinded)
	70	5/13/97	Storage and Transfer of Gasoline (amended)





**Cal/EPA**

California  
Environmental  
Protection  
Agency



Air Resources Board

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www.arb.ca.gov

*Rose*

February 9, 1998



Pete Wilson  
Governor

Peter M. Rooney  
Secretary for  
Environmental  
Protection

Mr. David P. Howekamp, Director  
Air Division  
United States Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, California 94105

RECEIVED

FEB 10 1998

Air Division  
U.S. EPA Region 9

Dear Mr. Howekamp:

This is to provide you with corrected documentation associated with our August 1, 1997, submittal to the United States Environmental Protection Agency of revisions to the *State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards (SIP)*.

The Ventura County Air Pollution Control District's Rule 70 was incorrectly listed on Enclosure A of that SIP submittal as having been amended on April 15, 1997. The correct amendment date for Rule 70 is May 13, 1997. San Diego County Air Pollution Control District Rules 52, 53, and 54 were incorrectly listed as having been amended on January 27, 1997. The correct date for all three rules is January 22, 1997.

We have enclosed a revised Enclosure A. We request that this corrected document be used to replace the Enclosure A originally included in the August 1, 1997, SIP submittal.

If you have any questions regarding this matter, please call me at (916) 322-6023, or have your staff contact Ms. Marcia Jorgensen at (916) 324-6222.

Sincerely,

*Robert D. Fletcher*

Robert D. Fletcher, Chief  
Emissions Assessment Branch  
Stationary Source Division

Enclosure

cc: Ms. Marcia Jorgensen  
Emissions Assessment Branch  
Stationary Source Division



## CALIFORNIA AIR RESOURCES BOARD SIP COMPLETENESS CHECKLIST

\*\*\* TO BE COMPLETED BY DISTRICT AND RETURNED TO ARB \*\*\*

All rules submitted to EPA as State Implementation Plan (SIP) revisions must be supported by certain information and documentation for the rule packages to be deemed complete for review by EPA. Rules will not be evaluated for approvability by the EPA unless the submittal packages are complete. To assist you in determining that all necessary materials are included in rule packages sent to the ARB for submittal to the EPA, please fill out the following form and include it with the rule package you send us. See the ARB's Guidelines on the Implementation of the EPA's Draft SIP Completeness Policy, October 1989, for a more detailed explanation than is provided here.

District Mojave Desert AQMD Rule No. 1402 Date Adopted or Amended 05/19/97

Rule Title Emission Reduction Credit Registry

### ADMINISTRATIVE MATERIALS

Not  
Attached Attached\* N/A

- (X) ( ) ( ) COMPLETE COPY OF THE RULE: Provide an unmarked copy of the entire rule as adopted or amended by your District Board.
- (X) ( ) ( ) UNDERLINE AND STRIKEOUT COPY OF THE RULE: If an amended rule, provide a complete copy of the rule indicating in underline and strikeout format all language which has been added, deleted, or changed since the rule was last adopted or amended.
- ( ) ( ) (X) COMPLETE COPY OF REFERENCED RULE(S): For any rule which includes language specifically referencing another rule, a copy of that other rule must also be submitted, unless it has already been submitted to EPA as a part of a previous SIP submittal.
- (X) ( ) ( ) PUBLIC NOTICE EVIDENCE: Include a copy of the local newspaper clipping certification (s), stating the date of publication, which must be at least 30 days before the hearing. As an alternative, include a copy of the actual published notice of the public hearing as it appeared in the local newspaper(s). In this case, however, enough of the newspaper page must be included to show the date of publication. The notice must specifically identify by title and number each rule adopted or amended.

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Attach a separate sheet for each rule explaining why any materials are not included and when they will be submitted to the ARB.

- (X) ( ) ( ) RESOLUTION/MINUTE ORDER: Provide the Board Clerk certified resolution or minute order. This document must include certification that the hearing was held in accordance with the information in the public notice. It must also list the rules that were adopted or amended, the date of the public hearing, and a statement of compliance with California Health & Safety Code §§40725-40728 (Administrative Procedures Act).
- (X) ( ) ( ) PUBLIC COMMENTS AND RESPONSES: Submit copies of written public comments made during the notice period and at the public hearing. Also submit any written responses prepared by the District Staff or presented to the District Board at the public hearing. A summary of the public comments and responses is adequate. If there were no comments made during the notice period or at the hearing, please indicate N/A to the left.
- 

#### TECHNICAL MATERIALS

- (X) ( ) ( ) RULE EVALUATION FORM: See instruction for completing the Rule Evaluation Form and the accompanying sample form.
- ( ) ( ) (X) NON-EPA TEST METHOD: Include all test methods referenced in the rule, but not previously submitted to EPA. Provide an explanation of the purpose and principle for the test method and include the following supporting technical data: Describe the test details (number of tests to be carried out, there precision, accuracy, and repeatability); On a technical basis, compare the method with the appropriate EPA/ASTM method; Explain the technical differences of the two methods and how they affect monitoring of the parameters of interest; Explain how the test methods affects the implementation and enforcement of the applicable rule; and Explain the advantages and any potential shortcomings of the test method.
- ( ) ( ) (X) MODELING SUPPORT: Provide, if appropriate. In general, modeling support is not required for VOC and NO<sub>x</sub> rules to determine their impacts on ozone levels. Modeling is required where a rule is a relaxation that affects large sources (≥100 TPY) in an attainment area for SO<sub>2</sub>, directly emitted PM<sub>10</sub>, CO, or No<sub>x</sub> (for NO<sub>2</sub> purposes). In cases where EPA is concerned with the impact on air quality of rule revisions which relax limits or cause a shift in emissions patterns in a nonattainment area, a reference back to the approved SIP will be sufficient provided the approved SIP used the current EPA modeling guidelines. If current EPA modeling guidelines were not used, then new modeling may be required.
- (X) ( ) ( ) ECONOMIC AND TECHNICAL JUSTIFICATION FOR DEVIATIONS FROM EPA POLICIES: As appropriate, describe special circumstances (i.e. where alternative RACT is used, extended compliance dates are included, etc.). A completed SIP Approvability Checklist - Enforceability Form will fulfill this requirement.
- (X) ( ) ( ) ADDITIONAL MATERIALS: Provide any other supporting information concerning development of the rule or rule changes, such as staff reports.

# CALIFORNIA AIR RESOURCES BOARD APCD/AQMD RULE EVALUATION FORM

## I. GENERAL

District: Mojave Desert AQMD Rule No: 1402 Date Adopted: 05/19/97

Rule Title: Emission Reduction Credit Registry

Date Submitted To ARB: 05/27/97 Last Submitted To ARB: 07/03/95

Pollutants Regulated By This Rule (Check):

☒ NOx ☒ SO2 ☒ PM10 ☒ VOC ☒ TAC (Name of TAC) Any

Is this rule intended to be sent to the EPA as a SIP revision? ☒ Yes ☐ No.

SUMMARY OF RULE CHANGES: ☐ New rule ☒ Amended rule

The amendments to Rule 1402 correct the Rule's indexing.

## II. NET EFFECT ON EMISSIONS ☐ Increase ☐ Decrease ☐ No change ☒ N/A

Emissions reduction commitment in SIP for this source category: N/A

SCC/CES Code(s) Affected: N/A Affected SIC Code(s): N/A

Inventory Year Used to Calculate Changes in Emissions:      Affected Area:                     

### Future Year Control Profile Estimate:

Tons/Year Reductions Year(increases)	Baseline Tons/year Subject to Rule	Control Level	Percent Control	Control Level	Control Factor
<u>    </u> / <u>    </u>	<u>    </u>	= <u>    </u> *	100 = <u>    </u> %	1.00 - <u>    </u> =	<u>    </u>
<u>    </u> / <u>    </u>	<u>    </u>	= <u>    </u> *	100 = <u>    </u> %	1.00 - <u>    </u> =	<u>    </u>
<u>    </u> / <u>    </u>	<u>    </u>	= <u>    </u> *	100 = <u>    </u> %	1.00 - <u>    </u> =	<u>    </u>





# CALIFORNIA AIR RESOURCES BOARD

## APCD/AQMD RULE EVALUATION FORM

III. SOURCES/ATTAINMENT STATUS District is: ☐ Attainment ☐ Nonattainment ☒ Split

Approximate number of minor (< 100 TPY) sources controlled by rule: N/A

Percent in nonattainment area: 100

Number of major ( $\geq$  100 TPY) sources controlled: N/A. Percent in nonattainment area: N/A.

Location of Major Sources by City: N/A

(Attach additional sheets as necessary.)

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IV. EMISSIONS REDUCTION TECHNOLOGY

Does rule include emission limits that are continuous? ☐ Yes; ☒ No.

If yes, those limits are in Section(s) N/A of the rule.

Other methods in the rule for achieving emissions reductions are: N/A

V. OTHER REQUIREMENTS The rule contains:

1) Emission limits in Section(s) N/A.

2) Work practice standards in Section(s) N/A

3) Recordkeeping requirements in Section(s) N/A.

4) Reporting requirements in Section(s) N/A.

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VI. IMPACT ON AIR QUALITY PLAN ☒ No Impact ☐ Impacts RFP ☐ Impacts Attainment

DISCUSSION: Administrative change to rule only

RES 3/93



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
SIP APPROVABILITY CHECKLIST-ENFORCEABILITY**

SIP Package No. _____	Date Rec. _____ (For USEPA Use Only)	Date Due _____
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District: Mojave Desert AQMD Rule No.: 1402 Date Adopted or Amended: May 19, 1997

Rule Title: Emission Reduction Credit Registry

Enforceability Analysis	District Response	EPA Requirement	Approvability (Approvable or Not) (For EPA Use Only)
1. Applicability			
a. What sources are being regulated?	Sources which generate excess emission reductions..	Clarity	
b. What are criteria for exemption?	N/A	Clarity	
c. Is calculation procedure for exemption clearly specified?	N/A	Example calculation or clear explanation of how to determine exemption (line by line, etc.)	

Enforceability Analysis	District Response	EPA Requirement	Approvability (Approvable or Not) (For EPA Use Only)
d. Is emission inventory listed in the background document of the attainment demonstration?	N/A	Inventory including allowable and actual emissions in source category should be included, for enforcement purposes and independent of any Clean Air Act requirements, in the attainment demonstration if such data is necessary for determining baselines in regulations.	
e. Is the averaging time(s) used in the rule different from that of the ambient standard?	N/A	The averaging time in the rule must be consistent with protecting the ambient standard in question. Normally, it should be equal to or shorter than the time associated with the standard. Longer term averaging is available only in limited instances provided that the ambient standard is not compromised.	
f. What are the units of compliance (lbs VOC per gallon of solids applied less water, grains per standard cubic foot?)	N/A	Clearly stated in the rule.	

Enforceability Analysis	District Response	EPA Requirement	Approvability (Approval For EPA Use Only)
g. Is bubbling or averaging of any type allowed? If yes, state criteria. Could a U.S. EPA inspector independently determine if the criteria were met? Does EPA have to approve each case?	N/A	Explicit description of how averaging, bubbling, or equivalency is to be determined. VOC equivalency must be on a "solids applied" basis. Any method must be independently reproducible. Provision must be explicit as to whether EPA case-by-case approval is required. If provision intended to be "generic" then EPA bubble policy must be met.	
h. If there is a redesignation, will this change the emission limitations? If yes, which ones and how?	N/A	Sunset Clause? Regulation may not automatically allow for self nullification upon redesignation of area to attainment. New maintenance demonstration required in order to drop regulation.	
2. Compliance Dates			
a. What is the compliance date?	N/A	Must not be later than approved or about to be approved date of attainment unless emission reductions not necessary for attainment. In some cases, it will be necessary for the regulation to specify dates in compliance schedules that are required to be submitted by source to state.	
b. What is the attainment date?	N/A		

Enforceability Analysis	District Response	EPA Requirement	Approvability (Approvable or Not) (For EPA Use Only)
3. Specificity of Conduct			
a. What test method is required?	N/A	Test method must be explicitly stated.	
b. What is the averaging time in compliance test method?	N/A	Averaging time and application of limit must be explicit.	
c. Is a compliance calculation or evaluation required? (i.e., daily weighted average for VOC).	N/A		
d. If yes to "c", list the formula, period of compliance, and/or evaluation method.	N/A	Formula must be explicit.	
4. Incorporation by Reference			
a. What is state authority for rulemaking?	California Health and Safety Code §§40702, 40725-40728		
b. Are methods/rules incorporated by reference in the right manner.	N/A		
5. Recordkeeping			

Enforceability Analysis	District Response	EPA Requirement	Approvability (Approvable or Not) (For EPA Use Only)
a. What records are required to determine compliance?	N/A	Clarity	
b. In what form or units (lbs/gal, gr/dscf, etc.) must the records be kept? On what time basis (instantaneously, hourly, daily)?	N/A	Records to be kept must be consistent with units of compliance in the performance requirements, including the applicable time period.	
c. Does the rule affirmatively require the records be kept?	N/A	There must be a clear, separately enforceable provision that requires records to be kept.	
6. Exemptions			
a. List any exemptions allowed.	N/A	Must be clearly defined and distinguishable from what constitutes a violation.	
b. Is the criteria for application clear?	N/A		
7. Malfunction Provisions	N/A	Rule must specify what exceedances may be excused, how the standard is to be applied, and who makes the determination.	





**MINUTES OF THE GOVERNING BOARD  
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
VICTORVILLE, CALIFORNIA**

**AGENDA ITEM 6**

**DATE:** MAY 19, 1997

**SUBJECT:** CONDUCT PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO RULE 1402 - *EMISSION REDUCTION CREDIT REGISTRY* AND CEQA DOCUMENTATION.

**RECOMMENDATION:** 1. Conduct public hearing to consider the adoption of proposed amendments to Rule 1402 - *Emission Reduction Credit Registry*; 2. Make a determination that the CEQA Statutory Exemption applies; and 3. Adopt a resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff actions.

**BACKGROUND:** On June 28, 1995, the Mojave Desert Air Quality Management District Governing Board adopted Rule 1402 - *Emission Reduction Credit Registry*. Due to an indexing error, the existing Rule contains two subsections numbered (B)(1)(b). Therefore, MDAQMD staff is proposing amendments to Rule 1402 to correct the Rule's indexing.

The proposed amendments to Rule 1402 were made available for public comments and appropriate notices were published on April 18, 1997, in compliance with the 30-day notice and comment period requirement.

With respect to the requirements of the California Environmental Quality Act (CEQA), the proposed amendments to Rule 1402 are ministerial in nature because they only correct the Rule's indexing. A Notice of Exemption, a Statutory Exemption (Ministerial Project - Pub. Res. Code §21080(b)(1); 14 CCR §15268), will be prepared by MDAQMD for the proposed amendments to Rule 1402 to meet CEQA requirements.

**REASON FOR RECOMMENDATION:** Health & Safety Code §40725 and §40726 require the Governing Board to hold a public hearing before adopting rules and regulations.

**REVIEW BY OTHERS:** This agenda item was reviewed as to legal form by Fazle Rab Quadri, District Counsel, on April 29, 1997.

cc: Cynthia Specht

File: Rules/Regs

Resolutions

I, LINDA BECK, CLERK OF THE  
GOVERNING BOARD OF THE MOJAVE DESERT  
AIR QUALITY MANAGEMENT DISTRICT HEREBY  
CERTIFY THAT THE ABOVE IS A TRUE  
AND CORRECT COPY OF THE  
ACTION AND MINUTES OF THE BOARD MEETING.

CLERK OF THE BOARD  
MOJAVE DESERT AIR QUALITY  
MANAGEMENT DISTRICT



**MINUTES OF THE GOVERNING BOARD  
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
VICTORVILLE, CALIFORNIA  
AGENDA ITEM 6**

**Page 2**

**FINANCIAL DATA:** No increase in appropriation is anticipated.

**PRESENTER:** Eldon Heaston, Deputy Air Pollution Control Officer.

Eldon Heaston presented summary and staff recommendation. Chair Larry Bowden opened Public Hearing and solicited public comments. None being, Chairman closed public hearing.

**ACTION OF THE GOVERNING BOARD  
APPROVED AND ADOPTED**

Upon Motion by BARBARA LOUX, Seconded by BARBARA RIORDAN, as approved by the following vote:

Ayes: HANSBERGER, CRAIN, ALMOND, LOVELESS, HARTZ, LOUX,  
BOWDEN, RIORDAN, MUNCY, MIKELS, JAMES, SHAVER

Noes:

Absent: WILSON, DAVIS

Abstain:

**LINDA BECK, CLERK OF THE GOVERNING BOARD**

**BY** 

**Dated: MAY 19, 1997**

REF: RESOLUTION #97-10, titled "A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 1402-EMISSION REDUCTION CREDIT REGISTRY AND DIRECTING STAFF ACTIONS."



1 RESOLUTION NO. 97-10

2 A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE  
3 DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS,  
4 CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 1402 -  
EMISSION REDUCTION CREDIT REGISTRY AND DIRECTING STAFF  
ACTIONS.

5 On May 19, 1997, on motion by Member LOUX, seconded  
6 by Member RIORDAN, and carried, the following resolution is adopted:

7 WHEREAS, the Mojave Desert Air Quality Management District (MDAQMD) has  
8 authority pursuant to California Health and Safety Code (H & S Code) §§40702, 40725-  
9 40728 to adopt, amend or repeal rules and regulations; and

10 WHEREAS, on June 28, 1995, the Mojave Desert Air Quality Management District  
11 Governing Board adopted Rule 1402 - *Emission Reduction Credit Registry*; and

12 WHEREAS, due to an indexing error, the existing Rule contains two subsections  
13 numbered (B)(1)(b); and

14 WHEREAS, MDAQMD staff is proposing amendments to Rule 1402 in order to  
15 correct the cross-references in the Rule; and

16 WHEREAS, the proposed amendments to the Rule are necessary as indicated herein  
17 and in the supporting documentation; and

18 WHEREAS, the MDAQMD has the authority pursuant to H & S Code §40702 to  
19 amend rules and regulations; and

20 WHEREAS, the proposed amendments to Rule 1402 are clear in that the meaning  
21 can be easily understood by the persons impacted by the Rule; and

22 WHEREAS, the proposed amendments to Rule 1402 are in harmony with, and not  
23 in conflict with, or contradictory to existing statutes, court decisions, or State or federal  
24 regulations; and

25 WHEREAS, the proposed amendments do not impose the same requirements as any  
26 existing State or federal regulation because they only correct the Rule's indexing; and

27 WHEREAS, the proposed amendments to Rule 1402 are needed in order to enable  
28 MDAQMD to fulfill its duties in a more effective manner; and



1       **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to  
2 H & S Code §40725, concerning the proposed amendments to Rule 1402 - *Emission*  
3 *Reduction Credit Registry*; and

4       **WHEREAS**, the adoption of the proposed amendments to Rule 1402 is exempt from  
5 California Environmental Quality Act (CEQA) review due to the ministerial nature of the  
6 amendments (Pub. Res. Code §21080(b)(1)); and

7       **WHEREAS**, a Notice of Exemption, a Statutory Exemption (Ministerial Project -  
8 Pub. Res. Code §21080(b)(1)) for the proposed amendments to Rule 1402, completed in  
9 compliance with the California Environmental Quality Act (CEQA), has been presented to  
10 the MDAQMD Board; each member having reviewed, considered and approved the  
11 information contained therein prior to acting on the proposed amendments to Rule 1402, and  
12 the MDAQMD Board having determined that the proposed amendments are exempt from  
13 CEQA review because they only correct the Rule's indexing; and

14       **WHEREAS**, the Board has considered the evidence presented at the public hearing;  
15 and

16       **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the  
17 MDAQMD finds that the proposed amendments to Rule 1402 - *Emission Reduction Credit*  
18 *Registry* are necessary, authorized, clear, consistent, nonduplicative and properly referenced;  
19 and

20       **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD  
21 hereby makes a finding that the Statutory Exemption (Ministerial Project - Pub. Res. Code  
22 §21080(b)(1)) applies and certifies the Notice of Exemption for the proposed amendments to  
23 Rule 1402; and

24       **BE IT FURTHER RESOLVED**, that the Board of the MDAQMD does hereby  
25 adopt, pursuant to the authority granted by law, the proposed amendments to Rule 1402 -  
26 *Emission Reduction Credit Registry*, as set forth in the attachments to this resolution and  
27 incorporated herein by this reference; and

28       **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately





upon adoption, and that the Clerk of the Board is directed to file the Notice of Exemption in compliance with the provisions of CEQA.

PASSED, APPROVED and ADOPTED by the Governing Board of the Mojave Desert Air Quality Management District by the following vote:

AYES: MEMBER: HANSBERGER, CRAIN, ALMOND, LOVELESS, HARTZ, LOUX, BOWDEN, RIORDAN, MUNCY, MIKELS, JAMES, SHAVER

NOES: MEMBER:

ABSENT: MEMBER: WILSON, DAVIS

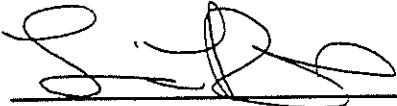
ABSTAIN: MEMBER:

STATE OF CALIFORNIA )

COUNTY OF SAN BERNARDINO )

ss:

I, Linda Beck, Clerk of the Governing Board of the Mojave Desert Air Quality Management District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the same appears in the Official Minutes of said Governing Board at its meeting of May 19, 1997.

  
\_\_\_\_\_, Clerk of the Governing Board, Mojave Desert Air Quality Management District



**APPENDIX "B"**  
**PUBLIC NOTICE DOCUMENTS**

*(to be included when available)*

1. Proof of Publication for Notice of Public Hearing - Daily Press
2. Proof of Publication for Notice of Public Hearing - Palo Verde Valley Times

# PROOF OF PUBLICATION

(2015.5 C.C.P.)

RECEIVED  
MDAQMD  
APR 21 PM 1:10

STATE OF CALIFORNIA,

County of San Bernardino

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the DAILY PRESS, a newspaper of general circulation, printed and published in the City of Victorville, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Bernardino, State of California, under the date of November 21, 1938, Case Number 43096; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

April 18

all in the year 19 97.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Victorville, California, this 18th day of April, 19 97.

*J. Lewman*  
Signature  
J. Lewman

This space is for the County Clerk's Filing Stamp

## Proof of Publication of

### NOTICE OF HEARING

**NOTICE OF HEARING**  
NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on **MONDAY, MAY 19, 1997, at 10:00 A.M.** to consider the adoption of proposed amendments to Rule 1402 - Emission Reduction Credit Registry. SAID HEARING will be conducted in the Governing Board Chambers, MDAQMD Offices, 15428 Civic Drive, Suite 200, Victorville, CA 92392-4323 where all interested persons may be present and heard. Copies of the proposed amendments to Rule 1402 and its staff report are on file and may be obtained from the Clerk of the Governing Board at the MDAQMD offices. Written comments should be submitted to Mr. Christian Iheracho, Supervising Air Quality Planner, at the above address. Written comments must be received no later than Monday, May 19, 1997 to be considered. If you have any questions you may contact Ms. Cynthia Specht, Air Quality Specialist, at (760)245-1661, ext. 5597. On June 28, 1995, the Mojave Desert Air Quality Management District Governing Board adopted Rule 1402 - Emission Reduction Credit Registry. Due to an indexing error, the existing Rule contains two subsections numbered (B)(1)(b). Therefore, MDAQMD staff are proposing amendments to Rule 1402 to correct the Rule's indexing. Pursuant to the California Environmental Quality Act (CEQA), MDAQMD has determined that a Categorical Exemption (Class 6-14 Cal. Code Reg. §15308) applies and has prepared a Notice of Exemption for this item.  
LINDA BECK  
Clerk of the Board  
Published in the Daily Press  
Apr 18, 1997  
(F-23)

**PROOF OF PUBLICATION**  
(2015.5 C.C.P.)

This space is for the County Clerk's Filing Stamp

STATE OF CALIFORNIA,

COUNTY OF RIVERSIDE

I am a citizen of the United States and a resident of the County Aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the

*Palo Verde Valley Times*

a newspaper of general circulation, printed  
and published **BI-WEEKLY**

in the **CITY OF BLYTHE**

**COUNTY OF RIVERSIDE**, and which newspaper has been adjudged a newspaper of general circulation by the Superior

Court of the **COUNTY OF RIVERSIDE**,

State of California, under the date of **JUNE 20, 1952, CASE NUMBER 54744**; that the notice, of which the annexed has a printed copy (set in type not smaller than nonpareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

**APRIL 18, 1997**

I certify (or declare) under penalty of perjury that the forgoing is true and correct.

**DATED AT BLYTHE,**

California, this 25 day of April 1997.

  
Signature

*Palo Verde Valley*  
**Times**  
231 N. SPRING ST., P. O. BOX 1159  
BLYTHE, CALIFORNIA 92225

Proof of Publication of

M.D.A.Q.M.D.

RULE 1402

**NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on **MONDAY, MAY 19, 1997 AT 10:00 A.M.** to consider the adoption of proposed amendments to Rule 1402 - Reduction Credit Registry.

SAID HEARING will be conducted in the Governing Board Chambers, MDAQMD Offices, 15428 Civic Drive, Suite 200, Victorville, CA 92392-4323 where all interested persons may be present and heard. Copies of the proposed amendments to Rule 1402 and its staff report are on file and may be obtained from the Clerk of the Governing Board at the MDAQMD offices. Written comments should be submitted to Mr. Christian Ihenacho, Supervising Air Quality Planner, at the above address. Written comments must be received no later than Monday, May 19, 1997 to be

considered. If you have any questions you may contact Ms. Cynthia Specht, Air Quality Specialist, at (619) 245-1661, ext. 5597.

On June 28, 1995, the Mojave Desert Air Quality Management District Governing Board adopted Rule 1157. The Rule contains a tuning procedure which was developed based on the State of California's Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (RACT/BARCT Determination). Inadvertently, Rule 402 - Emission Reduction Credit Registry. Due to an indexing error, the existing Rule contains two subsections numbered (B) (1) (b). Therefore, MDAQMD staff are proposing amendments to Rule 1402 to correct the Rule's indexing.

Pursuant to the California Environmental Quality Act (CEQA), MDAQMD has determined that a categorical Exemption (Class 8 - 14 al. Code Reg. §15308) applies and has prepared a Notice of Exemption for this item.

LINDA BECK

Clerk of the Board

Pub. April 18, 1997

**APPENDIX "C"**  
**PUBLIC COMMENTS AND RESPONSES**

*(none received yet)*

APPENDIX "D"  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
DOCUMENTATION

1. Draft Notice of Exemption

**DRAFT**

## NOTICE OF EXEMPTION

To: Clerk/Recorder  
Riverside County  
3470 12th St.  
Riverside, CA 92501

From: Mojave Desert Air Quality Management District  
15428 Civic Drive, Suite 200  
Victorville, CA 92392

X MDAQMD Clerk of the Governing Board

**Project Title:** Proposed amendments to Rule 1402 - *Emission Reduction Credit Registry*

**Project Location - Specific:** The Mojave Desert Air Basin portion of San Bernardino County and the Palo Verde Valley portion of Riverside County

**Project Location - County:** San Bernardino and Riverside Counties

**Description of Project:** The proposed amendments to Rule 1402 correct the Rule's indexing.

**Name of Public Agency Approving Project:** Mojave Desert Air Quality Management District (MDAQMD)

**Name of Person or Agency Carrying Out Project:** MDAQMD

**Exempt Status:** (check one)

- ☒ Ministerial (§§21080(b)(1); 15268);  
☐ Emergency Project (§§21080(b)(4); 15269(b));  
☐ Categorical Exemption (Class 8 - 14 Cal. Code Reg. §15308).

**Reasons Why Project is Exempt:** The proposed amendments only correct the Rule's indexing. Therefore the adoption of amendments to Rule 1402 is exempt from CEQA review.

**Lead Agency**

**Contact Person:** Eldon Heaston

**Area Code/Telephone/Extension:** (760) 245-1661

**SIGNATURE:** \_\_\_\_\_  
Eldon Heaston

**TITLE:** Deputy Air Pollution Control Officer

**DATE:** May 19, 1997

**DATE RECEIVED FOR FILING:** \_\_\_\_\_



**DRAFT**

## NOTICE OF EXEMPTION

**To:** Clerk of the Board  
San Bernardino County  
385 N. Arrowhead, 2nd. Floor  
San Bernardino, CA 92415

**From:** Mojave Desert Air Quality Management District  
15428 Civic Drive, Suite 200  
Victorville, CA 92392

X MDAQMD Clerk of the Governing Board

**Project Title:** Proposed amendments to Rule 1402 – *Emission Reduction Credit Registry*

**Project Location - Specific:** The Mojave Desert Air Basin portion of San Bernardino County and the Palo Verde Valley portion of Riverside County

**Project Location - County:** San Bernardino and Riverside Counties

**Description of Project:** The proposed amendments to Rule 1402 correct the Rule's indexing.

**Name of Public Agency Approving Project:** Mojave Desert Air Quality Management District (MDAQMD)

**Name of Person or Agency Carrying Out Project:** MDAQMD

**Exempt Status:** (check one)

- ☒ Ministerial (§§21080(b)(1); 15268);  
☐ Emergency Project (§§21080(b)(4); 15269(b));  
☐ Categorical Exemption (Class 8 - 14 Cal. Code Reg. §15308).

**Reasons Why Project is Exempt:** The proposed amendments only correct the Rule's indexing. Therefore the adoption of amendments to Rule 1402 is exempt from CEQA review.

**Lead Agency**

**Contact Person:** Eldon Heaston

**Area Code/Telephone/Extension:** (760) 245-1661

**SIGNATURE:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_  
Eldon Heaston Deputy Air Pollution Control Officer

**DATE:** \_\_\_\_\_  
May 19, 1997

**DATE RECEIVED FOR FILING:** \_\_\_\_\_

## APPENDIX "E" BIBLIOGRAPHY

N/A

(No published documents were consulted in the preparation of this staff report).

APPENDIX F  
ADDITIONAL PUBLIC COMMENTS AND RESPONSES

*(to be included as needed)*



# Mojave Desert Air Quality Management District



15428 Civic Drive, Suite 200, Victorville, CA 92392-2383  
(619) 245-1661 Fax No. (619) 245-2699

Charles L. Fryxell  
Air Pollution Control Officer

May 27, 1997

Harry Metzger, Manager  
Rule Evaluation Section  
California Air Resources Board  
P.O. Box 2815  
Sacramento, CA 95812

**RE: Adoption of Amendments to Rules 1157 - Boilers and Process Heaters and 1402 -  
Emission Reduction Credit Registry**

Dear Mr. Metzger:

Enclosed please find the State Implementation Plan (SIP) submittal packages for the following items which were adopted by the Mojave Desert Air Quality Management District (MDAQMD) Governing Board on May 19, 1997:

- Amended MDAQMD Rule 1157 - *Boilers and Process Heaters*; and
- Amended MDAQMD Rule 1402 - *Emission Reduction Credit Registry*.

The MDAQMD requests that you submit the above items to the U.S. Environmental Protection Agency (USEPA) as SIP revisions. The submission packages include SIP Completeness Checklists, the Rules, the resolutions, the minute orders, Rule Evaluation Forms, SIP Approvability Checklists and staff reports. Public notice evidence, public comments and responses are included in the staff reports. We have also included a computer disk with the Rules in electronic format.

The MDAQMD appreciates the help that CARB staff has provided in the development of these documents. Please feel free to contact me or Ms. Cynthia Specht, Air Quality Specialist, at (619) 245-1661 ext. 5597 if you have any questions.

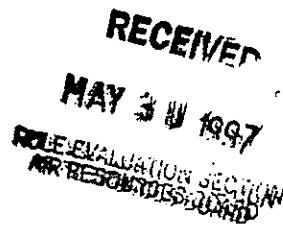
Sincerely,

Christian Ihenacho  
Supervising Air Quality Planner

Enclosures

CNI/CS

cc: Andrew Steckel, USEPA  
Paul Buttner, ARB w/o attachments



City of Adelanto • Town of Apple Valley • City of Barstow • City of Hesperia • City of Needles  
County of San Bernardino • City of Twentynine Palms • City of Victorville • Town of Yucca Valley



## Rule 1402

### Emission Reduction Credit Registry

#### (A) General

##### (1) Emission Reduction Credit Registry:

- (a) An Emission Reduction Credit Registry is hereby established for the District.
  - (i) This shall be known as the Mojave Desert Air Quality Management District Emission Reduction Credit Registry (MDAQMD ERC Registry).
- (b) The MDAQMD ERC Registry shall consist of ERCs which have met all the following requirements:
  - (i) A timely and complete application for ERCs has been received pursuant to Section (B)(1);
  - (ii) The amount of ERCs have been calculated and approved by the APCO pursuant to District Rule 1404;
  - (iii) The amount and ownership of the ERCs has been entered into the Registry;
  - (iv) A Certificate evidencing the amount, type and class of ERCs has been properly issued; and
  - (v) The ERCs have not yet been used as Offsets.
- (c) ERCs contained in the MDAQMD ERC Registry are permanent until used by the owner or by any person to whom the ERC has been transferred.
- (d) Subsequent changes in District Rules or Regulations to require a type of emission reduction which has previously been banked shall not reduce or eliminate such ERC.





(e) Emission reductions are eligible to become ERCs if:

- (i) Such reductions are AERs and meet the requirements of 1401(A) and 1404(A)(3); or
- (ii) Such reductions were:
  - a. previously recognized by the District in writing, pursuant to a formal internal tracking mechanism, as eligible for use as Offsets pursuant to Regulation XIII--*New Source Review*; and
  - b. included in the emissions inventory after the shutdown or modification occurred.

(2) Registration List:

- (a) All ERCs contained in the MDAQMD ERC Registry shall be listed in the Registration List.
- (b) The Registration List entry for each ERC shall contain the following information:
  - (i) The name, address, and telephone number of the owner(s) of the ERC;
  - (ii) The amount and type of approved ERC;
  - (iii) The Class of ERC (Class "A" ERC or Class "B" ERC);
  - (iv) Any information regarding liens, encumbrances and other changes of record.
- (c) The Registration List shall contain an entry for each ERC until such ERC is used, or otherwise altered by operation of law.

(3) ERC Certificate:

- (a) All ERCs issued pursuant to this regulation shall be evidenced by a Certificate issued by the District and signed by the APCO.



- (b) The Certificate shall contain the same information as is contained in the Registration List entry for the issued ERC.
  - (c) The APCO shall prescribe the form of the Certificate.
  - (d) ERC Certificates shall not constitute instruments, securities or any other form of property.
- (4) Ownership of ERCs:
  - (a) Initial title to approved ERCs shall be held by the owner(s) of the emissions unit(s) which produced the reduction in emission of air contaminants, in the same manner as such owner(s) hold title to the facility in which the emissions unit is located.
  - (b) Title for any approved ERC which has been transferred, in whole or in part, by written conveyance or operation of law from one person to another shall be held by the owner(s) in the manner indicated in the written conveyance or as indicated by the operation of law.
  - (c) The owner(s) of an ERC as listed in the Registration List and on the ERC Certificate shall have the exclusive right to use such ERCs and/or to authorize such use.
- (5) Classes of ERCs:
  - (a) ERCs shall be classified as either Class "A" ERCs or as Class "B" ERCs.
  - (b) ERCs shall be classified as Class "A" ERCs if:
    - (i) The emissions reduction is the result of a modification or limitation of use of existing equipment such that after the reduction is made the equipment remains in service with an authority to construct or permit to operate pursuant to Regulation II - *Permits* or Regulation XII - *Federal Operating Permits*; or
    - (ii) The emission reduction is the result of a shutdown of emission unit(s) and there will likely be no resulting emission increase by a replacement emission unit(s). The APCO shall determine that there will likely be no resulting emission increase by a replacement emission unit(s) using the following factors:



- a. The product manufactured by or the material processed through the emission unit(s) are products or materials which will not likely be replaced by new or existing emission unit(s) located within the District;
  - b. The emissions from any replacement emission unit(s) will not exceed the emission level of the shutdown unit;
  - c. The emissions increase from any replacement emission unit(s) must be offset under the provisions of Regulation XIII--*New Source Review*.
- (c) ERCs shall be classified as Class "B" ERCs if the emission reduction meets all the other requirements for AERs as set forth in District Rules 1401(A) and 1404(A)(3) but does not qualify as a Class "A" ERC.

## (B) Issuance of Emission Reduction Credits

### (1) Applications for ERCs:

- (a) ERCs shall be applied for, in writing, by the owner or operator of the emissions unit from which the emission reduction has occurred or will occur, to the APCO.
- (b) Applications for ERCs shall be clearly identified as such and shall contain the following:
  - (i) The name, address, and telephone number of the owner(s) of the emissions unit and a contact person if necessary.
  - (ii) Information sufficient to identify the source and/or causation of the emission reductions.
  - (iii) Information sufficient to allow the calculations set forth in Rule 1404 to be performed.
- (c) No application for ERCs will be accepted until the applicable fees as specified in District Rule 313 have been paid.
- (d) Applications for ERCs shall be submitted in a timely manner determined as follows:



- (i) For emissions reductions which occurred prior to June 28, 1995, an application for ERCs shall be submitted within one (1) year after June 28, 1995.
- (ii) For emission reductions which occurred after June 28, 1995, an application for ERCs shall be submitted within six (6) months after any of the following:
  - a. District issuance of an Authority to Construct pursuant to District Regulation II - *Permits*; or
  - b. District issuance of an Authority to Construct pursuant to Regulation XIII - *New Source Review*; or
  - c. District issuance of a modified permit pursuant to Regulation II - *Permits*; or
  - d. District issuance of a modified permit pursuant to Regulation XII - *Federal Operating Permits*; or
  - e. for emissions units not subject to permitting requirements, the completion of the modification or shutdown.
- (iii) Notwithstanding subsections (1)(c)(i) and (ii) above, a timely application for a Military Base subject to closure or realignment shall be determined pursuant to the provisions of Health & Safety Code §40709.7.
- (e) Applications for ERCs may be withdrawn at any time by the applicant.
  - (i) An applicant who withdraws an application shall only be entitled to a partial refund of fees as set forth in District Rule 313(E).
  - (ii) A withdrawn application for ERCs does not preclude an applicant from later submitting an application for ERCs based upon the same emissions reductions as those contained in the withdrawn application as long as such resubmitted application is timely.
- (2) Determination of Completeness:
  - (a) The APCO shall determine if the application is complete no later than thirty (30) days after the receipt of the application, or after such longer time as both the applicant and the APCO may agree upon in writing.





- (i) An application is complete when it contains the information required by subsection (B)(1)(b) above.
- (b) Upon making this determination, the APCO shall notify the applicant, in writing, that the application has been determined to be complete or incomplete.
  - (i) If the application is determined to be incomplete:
    - a. The notification shall specify which part of the application is incomplete and how it can be made complete; and
    - b. The applicant for ERC shall have thirty (30) days to submit the additional information, unless another time period is specified by the APCO in writing.
    - c. The applicant for an ERC may request, and the APCO may grant for good cause shown, extension(s) of time for submission of the additional information. Such request and any extension(s) granted shall be in writing.
    - d. If the applicant does not submit the additional information within the time period specified or extended the application shall be deemed withdrawn by the applicant.
- (3) Calculation of ERCs:
  - (a) Calculation of ERCs shall be performed pursuant to the provisions of District Rule 1404.
- (4) Proposed ERCs:
  - (a) Within thirty (30) days after the application for ERCs has been determined to be complete, or after such longer time as both the applicant and the APCO may agree upon in writing, the APCO shall determine, in compliance with the standards set forth in subsection (C) below, to issue or deny the ERCs.
    - (i) The APCO shall notify the applicant in writing of the determination.



- a. If the determination is to issue ERCs then the notice shall include the amount type and class of the ERCs proposed to be issued; or
  - b. If the determination is to deny the ERCs then the notice shall include an explanation of the reason for the denial.
- (ii) The information submitted by the applicant and the APCO's analysis shall be transmitted to the California Air Resources Board and the USEPA regional office no later than the date of publication of the notice of the preliminary determination pursuant to 1402(B)(5)(a), if the amount of ERCs proposed to be granted are greater than any of the following amounts:

<u>Pollutant</u>	<u>ERC Threshold</u>
NO <sub>x</sub>	50,000 lbs/yr
SO <sub>x</sub>	50,000 lbs/yr
ROC	50,000 lbs/yr
PM <sub>10</sub>	30,000 lbs/yr
CO	200,000 lbs/yr
H <sub>2</sub> S	20,000 lbs/yr
Pb	1,200 lbs/yr

(5) Public Notice and Comment:

- (a) After the APCO has determined to issue ERCs, the APCO shall publish a notice in at least one daily newspaper of general circulation within the District and shall send a copy of the notice to all persons who are included on a list of persons requesting notice, on file with the Clerk of the Board for the District.
- (b) The notice shall provide the following:
  - (i) The name and address of the applicant and the facility generating the emissions reductions, if different;



- (ii) The amount, type and class of ERCs proposed to be issued;
  - (iii) The name, address and telephone number of a person from whom additional information may be obtained; and
  - (iv) At least a thirty day period in which interested persons may submit written comments to the District regarding the proposed issuance of the ERCs.
- (c) The APCO shall accept all germane and nonfrivolous comments which are received during the comment period. The APCO shall consider such comments prior to issuance of the ERCs.
- (d) The APCO shall include all accepted comments with the records regarding the issuance of the ERCs and shall retain such records for a period of at least five (5) years.
- (6) Issuance of ERCs:
  - (a) Upon the expiration of the public comment period; after review of comments accepted, if any; and upon payment of the appropriate analysis fee, if any, the APCO shall issue the ERCs by including the appropriate information in the Registration List and issuing a Certificate.
  - (b) The APCO shall provide written notice of the final action to the applicant (and to USEPA and the California Air Resources Board, if the preliminary determination was sent to such agencies pursuant to (B)(4)(a)(ii)).

### (C) Standards for Granting Emission Reduction Credits

- (1) ERCs shall be real, enforceable, permanent, quantifiable and surplus.
- (2) ERCs shall only be granted for emissions reductions which are not otherwise required by Federal, State or District law, rule, order, permit or requirement.
- (3) ERCs shall only be granted if the applicable changes to permits have occurred or other enforceable documents have been submitted as indicated.
  - (a) If the emission reduction is the result of a modification or limitation of use of existing equipment:



- (i) A revised permit to operate containing federally enforceable conditions reflecting the modification and/or limitations has been issued.
- (b) If the emission reduction is the result of a shutdown of permit unit(s):
  - (i) The relevant permits have been surrendered and voided.
  - (ii) The emissions unit(s) for which the permits were surrendered will not be repermited within the District, unless their emissions are completely offset pursuant to Regulation XIII - *New Source Review*.
- (c) If the emission reduction is the result of a shutdown of a emission unit(s) which did not have a District permit:
  - (i) A valid District permit has been obtained or a contract enforceable by the District has been executed by the applicant which contains enforceable limitations reflecting the reduced emissions.
- (d) If the emission reduction is the result of the application of a more efficient control technology to a previously unpermitted emission unit(s):
  - (i) A valid District permit has been obtained which contains enforceable limitations reflecting the reduced emissions.
- (4) If the emission reduction originates from a previously unpermitted emission unit, no ERCs may be granted unless the emissions are included in the District's Emissions Inventory.

**(D) Transfer, Encumbrance, and Readjustment of Emission Reduction Credits**

- (1) ERCs may be transferred in whole or in part by written conveyance or by operation of law from one person to another in accordance with the provisions contained in this rule.
- (2) A voluntary transfer of ownership in whole or in part shall be performed according to the following procedure:





- (a) The owner(s) of the ERC may file a request for transfer of ownership with the APCO. Such request shall include:
    - (i) Information regarding the new owner of the ERC sufficient for entry in the registry.
    - (ii) An executed copy of the instrument transferring the ERC or a memorandum describing the transaction which transfers the ERC which is signed by all parties to the transaction.
    - (iii) The purchase price, if any, of the ERCs in terms of total cost by pollutant purchased.
    - (iv) The existing ERC Certificate(s) for the ERCs to be transferred.
  - (b) Upon payment of the appropriate transfer fee as set forth in District Rule 313, the APCO shall cancel the existing ERC Certificate(s) and issue new certificate(s) in the name of the new owner and indicate the transfer in the Registration List.
- (3) An involuntary transfer of ERCs shall be performed pursuant to the following procedure:
- (a) The transferee shall file with the District a certified copy of the document effecting the transfer. The transferee shall certify that the document represents a transfer which is final for all purposes.
  - (b) Upon payment of the appropriate transfer fee as set forth in District Rule 313, the APCO shall demand the original ERC Certificate from the original owner. Upon the surrender of the existing ERC Certificate to the District or after 90 days (whichever comes first), the existing ERC Certificate shall be considered cancelled, and the APCO shall issue a new ERC Certificate and indicate the involuntary nature of the transfer in the registry.
  - (c) The APCO shall thereafter not allow the use or subsequent transfer of the ERC by the original owner.
- (4) Other encumbrances upon ERCs shall be placed as follows:
- (a) The holder of the encumbrance shall file with the District a certified copy of the final document creating the encumbrance.



- (b) Upon payment of the appropriate transfer fee as set forth in District Rule 313, the APCO shall indicate the encumbrance in the Registration List.
  - (c) Thereafter the APCO shall not allow the use or subsequent transfer of the ERC by the owner without receipt of a certified copy of the satisfaction of the encumbrance or by the removal of the incumbrance by its holder of the encumbrance.
- (5) Readjustments of ERCs due to the readjustment of AERs pursuant to District Rule 1404 shall be processed as follows:
  - (a) The owner of the ERC shall file an application to adjust the AER.
  - (b) The APCO shall determine if the adjustment of the AER is warranted and the amount of such adjustment pursuant to the provisions of District Rule 1404.
  - (c) After the APCO has determined the amount of the adjustment, upon surrender of the prior ERC Certificate, the APCO shall issue an adjusted ERC Certificate to the owner.
- (6) Any transfer of an ERC shall not modify or otherwise alter the requirements contained in a permit or contract which render the ERC real, enforceable, permanent and quantifiable.
- (7) Notwithstanding any other provision of law, conflicting interests in ERCs shall rank in priority according to the time of filing with the District.

(E) Use of Emission Reduction Credits

- (1) Class "A" ERCs:
  - (a) Class "A" ERCs may be used as offsets in accordance with the provisions of Regulation XIII--*New Source Review*.
- (2) Class "B" ERCs:
  - (a) Class "B" ERCs may not be used as offsets unless and until they have been reclassified as Class "A" ERCs.
  - (b) Class "B" ERCs may be reclassified as Class "A" ERCs as follows:



- (i) The owner of the Class "B" ERC applies to the APCO in writing for reclassification.
- (ii) The APCO determines that the ERC now meets the requirements for Class "A" status. The APCO shall consider all relevant factors including:
  - a. The length of time the emission unit(s) have been out of service;
  - b. Whether other similar emission unit(s) have experienced increased activity caused by the shutdown;
  - c. Whether a permit application for a replacement emission unit has been filed within one year of the date of the shutdown.
- (iii) The APCO notifies the owner of the Class "B" ERC of his/her determination in writing.
- (iv) If the APCO determines that reclassification is warranted then, upon receipt of the Class "B" ERC Certificate and payment of the appropriate fee as set forth in District Rule 313, the APCO shall cancel the Class "B" ERC Certificate and issue a Class "A" Certificate to the owner.

(F) Appeal of the Granting or Denial of Emission Reduction Credits

- (1) An applicant for ERCs may, within 30 days after receipt of the notice of denial of ERCs, petition the District Hearing Board for a hearing on whether the application for ERCs was properly refused.
- (2) The procedural provisions applicable to such a hearing shall be the same as those used for hearings regarding the denial of a permit application pursuant to Health & Safety Code §42302.

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